

COMMITTEE ON PROCEDURES AND PERFORMANCE AUDIT ON PUBLIC SERVICES (CPPAPS)

Report No. – 1
Exchange Control
relating to Individuals

<p><u>Action taken by RBI for implementation of the recommendations of the CPPAPS</u></p>	<p><u>Foreign Exchange Department</u> <u>Central Office</u> <u>Reserve Bank of India</u> <u>10th Floor</u> <u>S.B. Singh Road</u> <u>Mumbai - 400001</u></p>
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Committee on Procedures and Performance Audit on Public Services (CPPAPS)

Action taken by RBI on Report No. – I on Exchange Control relating to Individuals

Sl. No.	Recommendations of the Committee	Action taken/proposed to be taken by RBI
1	The Committee has attempted to look at whether, within the overarching framework of policy intent , the policy contents were such as to enable a seamless flow of services	The Committee has focused on moving towards a policy content supported with procedures that would enable individuals to undertake foreign exchange transactions, with operational ease as is in the case of rupee transactions.
2.	To enable a change in the mindset the Committee recommends that the authorities need to move towards a policy content which would then require procedures wherein foreign exchange transactions, at least for individuals, would have the same ease of operations as rupee transactions.	Noted for guidance for future. It may also be noted that a variety of measures have been taken both to liberalise facilities as well as carry out relaxation in procedures for foreign exchange transactions involving individuals. Some of them are: <ul style="list-style-type: none"> • Simplification of exchange release of foreign exchange upto USD 10,000 for private travel in any calendar year. • Procedural simplification of any permitted current account transaction upto USD 5,000 without documentary requirements. • Release of foreign exchange upto USD 100,000 on the basis of self-certification towards study abroad, medical treatment overseas, employment abroad, emigration and towards maintenance of close relatives. • Use of International Credit Card upto sanctioned credit limit for meeting expenses/making purchases while abroad and for purchase of books and other items through Internet.
3.	The Committee recommends that in the current environ, the Exchange Control Department, as the regulator for foreign exchange transactions, should move away from micro management of controlling forex transactions , particularly for individuals, and concentrate on monitoring flows . If the policy intent is to offer seamless services, particularly to individuals, the policy content would need certain adjustments. The Committee recognises that the overall extent and pace of liberalisation has to be a judgement of the authorities, but within this overall judgement there is much merit in moving away from detailed and fractionated sub-limits which are difficult to monitor and cause unnecessary hardship to individuals by way of complex and avoidable procedures which serve little or no purpose	<ul style="list-style-type: none"> ❖ Though there has been a move away from micro regulation of transactions and authorised dealers (ADs) were given the freedom and responsibility on appropriate documentation for current account transactions, room for improvement will be continuously explored. ❖ Greater focus is being placed on monitoring flows and analysis of data under various Auto Route facilities.

4.	<p>The Committee is of the view that the declaration required to be submitted by an applicant that he is not violating any rules/regulations and in case of violation he is liable for action under FEMA, puts the onus of compliance squarely on the applicant and runs counter to the basic spirit of the Act. The declaration does not seek the applicant to confirm as to what he is doing but seeks to confirm what he is not doing. The Committee is of the view that the underlying philosophy of a progressive liberalisation implicit in FEMA has been undermined by the prevailing practice of obtaining such a declaration. The FEDAI formats are clearly in the knowledge of RBI and the RBI, FEDAI and ADs cannot be absolved of the atrocity perpetrated on the user of exchange. The Committee, therefore, recommends that RBI, FEDAI and ADs should take immediate action to withdraw this Declaration. The Committee is of the view that any Declaration by the user of exchange should relate to what the remitter is doing rather than what is not being done.</p>	<p>As recommended by the Committee, a simplified application cum declaration form has been introduced vide AP DIR (Series) Circular no. 77 dated March 13, 2004. The declaration in the simplified application cum declaration form is for what the remitter is doing rather than what is not being done.</p>
5.	<p>The Committee recommends that the Exchange Control Department should reinforce its efforts to selectively assess the progress at the bank branch level in providing fair and expeditious services to individual customers for remittances upto US\$25,000 per annum. <i>Inter alia</i> the processes followed by the bank branches while dealing with these cases should be studied by the ECD. Furthermore, banks should be advised to closely monitor that the branches process cases relating to individuals for remittances upto US\$25,000, expeditiously within the framework of the extant policies</p>	<ul style="list-style-type: none"> ❖ Based on the feedback received about continuing procedural difficulties at branch level the in-charges of Regional Offices personally visited a number of major AD branches and International Banking Divisions in order to have a first hand assessment of the problem issues. The feedback provided useful insights and necessary follow up action initiated through Nodal Officers of ADs to secure better implementation of the liberalised measures with particular focus on remittances upto USD 25,000. ❖ Senior Officers including Chief General Managers are visiting various centers to follow up the measures taken for more effective implementation of liberalisation measures. ❖ Half a day workshop has been organised by a number of Regional Offices. Further workshops are being organised by remaining Regional Offices. Useful feedback received from the ADs at the workshop has been taken up for action. ❖ An extensive publicity drive has also been undertaken through print media. Details of facilities for residents and non-residents were advertised in all leading English and vernacular dailies across the country.

		<ul style="list-style-type: none"> ❖ Master circulars and Frequently Asked Questions (FAQs) as well as printed pamphlets on important facilities have been brought out. ❖ The following additional steps are under implementation. <ul style="list-style-type: none"> ▪ Information kits/training material (CDs) for AD branch staff containing all the foreign exchange related rules, regulation, directions, etc., is being developed and would be supplied to ADs. ▪ Sensitisation programme for faculty of training institute of ADs is being conducted by Bankers Training College. A new module for trainers of ADs has also been suggested to facilitate speedier percolation of liberalised measures covering change in directions, Technological requirements, and attitudinal and behavioural aspects. <p>The Top Management has been emphasising on the importance of percolation of liberalisation measures at various interfaces and meetings. This was also emphasised by the Deputy Governor at a meeting with Chairman of banks held on March 6, 2004.</p>
6.	The Committee's recommendations relating to remittances by resident individuals are:	
	<p>i All limits below US \$ 25,000 per annum should be scrapped and subsumed under the new aggregate limit of US \$ 25,000 per annum for current and capital remittances already proposed to be announced by the authorities. Thus, Items 1, 3, 4, (Appendix-I) should be discontinued as separate facilities.</p>	<p>AP Dir Series circular for USD 25,000 per annum has already been issued on February 4, 2004. As per the circular, the USD 25,000 facility is in addition to private visits (Item 1-USD 10,000 of Appendix-I), gift (Item 3 –USD 5,000 of Appendix-I), and donations (Item 4-USD 5,000 of Appendix-I). The present scheme is therefore more liberal than the suggestion made by the Committee. One of the reasons for retaining the separate limits is because the USD 25,000 remittance scheme requires remittance through designated branches and a PAN No. which all remitters may not have.</p>
	<p>ii For all remittances upto US \$ 25,000 per annum there should be a Simple Letter-Cum-Declaration for which the Committee has set out a model format. The A2 form should be dispensed with for remittances upto US \$ 25,000 per annum.</p>	<p>The recommendation of the Committee has been accepted. A Simple letter-cum-declaration form for liberalised USD 25,000 scheme has already been prescribed. The A2 form is also dispensed with for remittance of USD 25,000 per annum under the scheme.</p>
	<p>iii For all other facilities above US \$ 25,000 per annum the AD may call for appropriate additional information.</p>	<p>Accepted.</p>

iv	As regards remittances for Miscellaneous Purposes (Item 11 of the Appendix-I) there is a clear discord between the policy intent and the policy. The present limit of US \$ 5,000 for Miscellaneous Purposes is per transaction and not per annum and, as such, this totally subverts the intent of policy. This is a case of an appropriate liberalisation being miscued which should be rectified. In the context of the proposed limit of US \$ 25,000 per annum for all current and capital transactions the Committee recommends that this facility of US \$ 5,000 per transaction should be scrapped.	AP Dir Circular 55 dated December 23, 2003 was essentially a procedural simplification to provide hassle free drawal of foreign exchange for permissible current account transactions, i.e., submission of a simple letter without insisting on any documents including form A2. The limit for simplified documentation was enhanced for all transactions upto USD 5,000 from USD 500.
v	As regards the ESOP Scheme (Item 13 of the Appendix-I) the Committee recommends that the proviso that the ESOP should be at a concessional price could be re-examined by the RBI.	The Committee's recommendation has been accepted and changes in Employees' Stock Option (ESOP) guidelines have been notified and the proviso that the ESOP should be at a concessional price has been removed.
vi	In case of portfolio investment facility for individuals (Item 14 of the Appendix-I) the Committee recommends that the RBI should allow foreign currency account to be held abroad by individuals subject to reasonable safeguards. For remittances upto US\$25,000 per annum the condition, stipulating that the investment can be made only in companies which have investment of at least 10 per cent in a company listed on a recognised Indian stock exchange, should be waived. The Committee recommends that as a corollary to the facility on portfolio investment, residents should be allowed to maintain foreign currency accounts outside India for any purpose within the aggregate limit of remittances upto US\$25,000 per annum.	The newly introduced USD 25,000 Remittance Scheme freely permits remittance for such portfolio investment by individuals without the restrictions as applicable to general portfolio investment facility.
vii	While the Committee has taken note of the facilities for International Credit Cards (ICC) {Item 18 of the Appendix-I) the Committee would urge that the operation of the ICC be carefully reviewed by the RBI.	International Credit Cards (ICC) facilities are available upto the limit fixed by the card issuing authorities based on the credit worthiness of the applicant and subject to Foreign Exchange Management Act (FEMA) compliance by the cardholder. In the context of recommendations of the Committee and feedback on existing policy, a review of the facility has been undertaken.
viii	The Committee recommends that the proposed limit of US \$ 25,000 per annum for current and capital remittances by resident individuals be reviewed and raised annually. The Committee	As suggested by the Committee, the facilities under the liberalized Remittance Scheme for USD 25,000 would be reviewed annually based on ADs feedback and other macro-economic indicators.

		stresses that the procedures for these remittances should be kept simple and hassle free and the simple letter-cum-declaration set out by the Committee could be the basis for the format to be devised by ADs. (Appendix-I)	A simple application cum declaration format has already been introduced for remittance under the scheme.
7		The Committee recommends that to the extent the NRO Accounts are continued as a separate and distinct entity, it is incumbent on the RBI and the Government to ensure that within the present liberal facilities NRO Account holders are not subject to unnecessary procedural hassles. NRO Account holders who were intended to have facilities better than residents are, because of cumbersome procedures, in effect treated more harshly than residents .	As recommended by the Committee a review of various Non Resident Accounts and related facility has been undertaken.
8		Joint accounts with residents are not permitted under FCNR(B) and NRE Account Schemes though this is permitted under the NRO Accounts Scheme. While under all the three non-resident account Schemes a resident, holding Power of Attorney (P.A.) is allowed to execute domestic transactions, the PA holder cannot use it for remittances outside India. For remittances abroad the non-resident account holder is required to send a letter/fax requesting for the remittance. The Committee recommends that the matter should be reviewed urgently by the ECD and transactions for remittances outside India should also be allowed with use of a PA given to a resident .	
9.	The Committee has the following recommendations which are set out in the Appendix-II:		
	i.	In the case of repatriation of current income (Item 1 of the Appendix-II) as well as other remittances from NRO Accounts, the Committee is of the considered view that the present formats and procedures are extremely arduous, almost rendering the facilities infructuous. The Committee recommends that the RBI should take up with the tax authorities the need for formats tailored to individuals. In the case of remittances within an aggregate amount upto US \$ 25,000 per annum the present formats including A2 forms, Forms A and B and the Declaration should be dispensed with and requisite information could be sought based on the format for model letter-cum-declaration suggested by the Committee for resident individuals. The Committee further recommends that as regards tax compliance for remittances upto US\$25,000 per annum it should suffice if the individual produces a copy of the Assessment Order for the year for which	The Committee's recommendations have been accepted. The matter has been taken up with the Revenue Authorities for simplification of tax compliance procedures and forms.

		the remittance is sought or if an Assessment Order is not available, the remittance may be permitted six months after the date of the filing of the income tax return on production of a copy of the return duly acknowledged by the tax authorities.	
	ii	The sale proceeds of assets, including immovable property and other investments (Items 2 and 8 of the Appendix-II) should be allowed to be remitted as set out in paragraph (i) above.	As above
	iii	The Committee is of the view that the provisions of Section 195 of the Income Tax Act are very onerous and are met only in the breach and need to be reviewed.	As above
	iv	The Committee recognises that the use of the ICC out of NRO funds is a very liberal facility. In comparison the stringency of procedures for other facilities comes into sharp focus and the Committee recommends that hardship to NROs by way of extremely difficult procedures should receive the urgent attention of the RBI. (Appendix-II)	RBI is undertaking review of ICC and NRO facilities as indicated under item 6(vii) and 7.
10		The Committee recommends that in the first instance, for individuals , a set of Master Circulars should be prepared. The Committee also recommends that each circular should have a sunset clause of one year and unless reissued would lapse .	The print version of the Master Circular is <u>updated annually</u> , however, the soft copy available on our web-site is updated periodically after issue of a circular on related subject. Therefore there may not be a need for a formal sunset clause but the annual update will operate in the spirit of the sunset clause.
11		For individuals the Committee recommends that a <i>Child's Guide</i> should be prepared which would set out, free from jargon, the content of the ECD circulars .	A Child's Guide will be prepared in consultation with FEDAI . This will be the second such attempt, first one was also taken up by FEDAI.
12		The Committee recommends that the RBI should urge banks to so undertake job rotation that there is always core staff at the branches with knowledge of foreign exchange regulations/operations as applicable to individuals	RBI had written to Chairperson of all banks on staffing pattern, attitudinal and functional training requirements. We have again taken up the matter with ADs reiterating our concerns for trained staff at first point of interface with customers.

<p>13.</p>	<p>Reflecting the sea change in the forex situation it would be useful, as a signal, to alter the name of the Exchange Control Department to say Foreign Exchange Department. The Committee reiterates its recommendation that the ECD should make a conscious effort to eschew from micro management and to this effect should move away from controlling forex transactions to monitoring flows. The endeavour should be to provide seamless service and the longer term objective should be that services for forex transaction are as hassle free as for rupee transactions .</p>	<ul style="list-style-type: none"> ❖ The name of the department has been changed to Foreign Exchange Department on January 31, 2004. Change in the name of department, particularly removal of word control conveys the change in basic objective of the department. ❖ The Department is getting leaner. There has been reduction of staff at all levels and induction of persons with skills consistent with our present requirements. A right sizing of the department was undertaken in first half of 2003 resulting in reduction of strength by over 40 per cent. Further reduction of over 33 per cent has taken place following the Optional Early Retirement Scheme.
<p>14.</p>	<p>The Committee recommends that the ECD has to undergo a paradigm change, away from controlling to facilitating individual transactions. This will require a major attitudinal change in the Department. The ECD should endeavour to become a lean strategic task force dedicated to facilitating foreign exchange transactions and not an army of controllers whose objective is to conserve foreign exchange. The watchword of ECD should be the empowerment of the common person undertaking legitimate transactions in foreign exchange.</p>	<ul style="list-style-type: none"> ❖ Regular strategy sessions are being held at the level of CGMs and top management to review the approach of the department and FEMA issues. ❖ On going reviews of rules and regulations and procedures are <u>being undertaken</u> to secure empowerment of the common person undertaking legitimate foreign exchange transactions.
		<p>Among the recent initiative by RBI indicating a paradigm change in its policy stance are summarised below:</p> <ol style="list-style-type: none"> 1) Liberalised scheme for remittance of USD 25000. 2) Integrated form for non-import transactions upto USD 5000 3) Grant of Rupee loans to NRIs as per policy laid down by Board of Directors of Banks 4) Grant of loans by Indian Companies to the employees of their branches outside India for personal purposes <p>Liberalized remittance under Current Account Transaction e.g. general permission for remittance for securing Insurance for personal health from a company overseas, Commission to agents abroad for sale of residential flats/commercial plots, remittance by Artiste, etc.</p>

Appendix-I

EXISTING POSITION ON FOREIGN EXCHANGE FACILITIES AVAILABLE TO RESIDENT INDIVIDUALS (As made available by the Exchange Control Department, Central Office)							Committee's Recommendations/ Comments
Sr. No.	Item	Reference to FEMA/A.P. (DIR Series) Circular)	Limits specified Rs.	Conditions stipulated by RBI/ Government of India	Document s	Remarks	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Release of exchange in one calendar year, for one or more private visits to any country (except Nepal and Bhutan - please see Item 2).	Item 2 of Sch.III of Current A/c. Rules 2000. 51/18.11.02 3/17.07.03	USD 10,000	No conditions.	Simple letter.	<ul style="list-style-type: none"> No limit if ICC is used except the card limit. Form A2 required if the amount exceeds USD 5000 	<ul style="list-style-type: none"> Within the Committee's general recommendations of allowing remittances, under all heads, of US\$25,000 per annum this separate limit of US\$10,000 should be scrapped. There should be no A2 form and present Declaration should be altered on the lines of Committee's model declaration.
2.	Travel to Nepal and Bhutan.	Rule No.3(b) of Current A/c. Rules, 2000.	No foreign exchange admissible.	--	--	Indian currency only except currency notes of denomination of Rs.500 and above.	--
3.	Gift remittance	Item No.3 of Sch.III to	USD 5000	Per remitter / donor per	Simple letter.	<ul style="list-style-type: none"> No A2 Form. 	As per Item 1.

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Sr. No.	Item	Reference to FEMA/A.P. (DIR Series) Circular)	Limits specified Rs.	Conditions stipulated by RBI/ Government of India	Documents	Remarks	
		Current A/c. Rules, 2000.		annum.			
4.	Donations	Item No.4 of Sch.III to Current A/c. Rules, 2000.	USD 5000	Per remitter / donor per annum.	Simple letter.	• No A2 Form.	As per Item 1.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
5.	Exchange facilities for person going abroad for employment.	Item No.5 of Sch.III to Current A/c. Rules, 2000. 3/17.7.03	USD 100,000	Payment for purchase of foreign exchange to be made by applicant by means of cheque or demand draft or by debit to his/her account.	Self declaration giving basic details of the transaction.	• Form A2 required if the amount exceeds USD 5000	Within the Committee's general recommendations of allowing remittances, under all heads, of US\$25,000 per annum , remittances under this head should also be subject to the documentations as per Item 1. For remittances above US\$25,000 per annum the extant documentation can be continued.
6.	Exchange facilities for emigration.	Item No.6 of Sch.III to Current A/c. Rules, 2000. 3/17.07.03	USD 100,000 or amount prescribed by country of emigration.	Payment for purchase of foreign exchange to be made by applicant by means of	Self declaration giving basic details of the transaction.	• Form A2 required if the amount exceeds USD 5000	As per Item 5.

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				cheque or demand draft or by debit to his/her account.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
7.	Remittance for maintenance of close relatives abroad. • A person who is resident but not permanently resident in India and a citizen of foreign state other than Pakistan.	Item No.7(i) of Sch.III to Current A/c. Rules, 2000. 3/17.07.03	Net salary (after deduction of taxes, contribution to Provident Fund and other deductions)		No specific directions to ADs on documentation	• Form A2 required if the amount exceeds USD 5000	As per Item 5.
	• In all other cases	Item No.7(ii) of Sch.III to Current A/c. Rules, 2000. 3/17.07.03	USD 100,000 per annum.	Payment for purchase of foreign exchange to be made by means of cheque or demand draft or debit to his/her account.	Self declaration giving basic details of the transaction.	• Form A2 required if the amount exceeds USD 5000	As per Item 5.

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	Continued						
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	<ul style="list-style-type: none"> A national of foreign state resident in India being an employee of foreign company or a citizen of India employed by a foreign company outside India and either case on deputation 	Notifications FEMA.34 dt.22.1.2001 [A.P.(DIR) 28 dt.30.3.2001] FEMA.89 dt.29.4.2003 [A.P.(DIR) 17 dt.20.9.2003]	Not exceeding 75% of the salary accrued to or received from the foreign company.	<ul style="list-style-type: none"> The remaining salary to be paid in rupees in India. Subject to applicable taxes on the entire salary as accrued in India. 	No specific directions to ADs on documentation.	<ul style="list-style-type: none"> Form A2 required if the amount exceeds USD 5000 	As per Item 5.
8.	Business Travel or attending a conference or specialised training or for maintenance expenses of a patient going abroad for medical treatment or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment /check-up.	Item No.8 of Sch.III to Current A/c. Rules, 2000.	USD 25,000 per trip, irrespective of period of stay abroad.	No conditions stipulated.	Self Declaration .	<ul style="list-style-type: none"> No limit if ICC is used except the card limit. Form A2 required if the amount exceeds USD 5000 	-
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

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Sr. No.	Item	Reference to FEMA/A.P. (DIR Series) Circular)	Limits specified Rs.	Conditions stipulated by RBI/ Government of India	Document s	Remarks	
9.	Expenses for medical treatment abroad.	Item No.9 of Sch.III to Current A/c. Rules, 2000.	<ul style="list-style-type: none"> • USD 100,000 • Above USD 100,000 - As per estimate from the doctor in India or hospital/ doctor abroad 	Payment for purchase of foreign exchange to be made by applicant by means of cheque or demand draft or by debit to his/her account. -do-	<ul style="list-style-type: none"> • Declaration from the applicant that he is drawing exchange for medical treatment outside India • Estimate from the doctor in India or hospital/ doctor abroad. 	<ul style="list-style-type: none"> • Form A2 required if the amount exceeds USD 5000 	As per Item 5.
10.	Studies abroad. Continued.....	Item No.10 of Sch.III to Current A/c. Rules, 2000.	<ul style="list-style-type: none"> • USD 100,000 	Payment for purchase of foreign exchange to be made by applicant by means of cheque or demand draft or by debit to his/her account.	<ul style="list-style-type: none"> • Self declaration giving basic details 	<ul style="list-style-type: none"> • Form A2 required if the amount exceeds USD 5000 	As per Item 5.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		Item No.10 of Sch.III to Current A/c. Rules, 2000.	<ul style="list-style-type: none"> • Above USD 100,000 - As per estimate 	Payment for purchase of foreign exchange to be made by	Estimate from the Institution abroad.	<ul style="list-style-type: none"> • Form A2 required. 	As per Item 5.

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			from the institution abroad	applicant by means of cheque or demand draft or by debit to his/her			
11.	Remittances for miscellaneous purposes (all permissible current account transactions).	55/23.12.03	USD 5,000	No conditions.	Simple letter containing the basic information viz. names and addresses of the applicant, and the beneficiary, amount to be remitted and the purpose of remittance.	No A2 form.	There appears to be some discord between the policy intent and the policy and in view of the recommendations for item 1 of the table this needs to be scrapped as the present limit of US\$5,000 is per <u>transaction</u> and not <u>per annum</u> .
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
12.	Release of exchange for all other current account transactions.	FEMA, 1999 i.e. Items not indicated in Sch.I, II and III to the Current A/c. Rules, 2000.	No limits specified.	The transactions should be bonafide current account transactions.	For remittance upto USD 5000, simple letter containing the basic information viz. names and addresses of the applicant,	<ul style="list-style-type: none"> Form A2 required if the amount exceeds USD 5000 	As per Item 1.

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					and the beneficiary, amount to be remitted and the purpose of remittance <ul style="list-style-type: none"> • For remittance exceeding USD 5000, documentary evidence to show that the transaction is bonafide. 		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
13.	ESOP Scheme - Remittance for acquisition of foreign securities.	68/13.01.03 104/31.05.04	No limit.	The resident individual has to be an employee or director of an Indian Office or branch of a foreign company or of a subsidiary of a foreign company or of an Indian company in which the foreign equity holding is not less than 51 per cent. The shares	Documentary evidence in compliance of the conditions stated in column No.5.	<ul style="list-style-type: none"> • Form A2 required if the amount exceeds USD 5000 	As per Item 5. The proviso that the ESOP should be at a concessional price could be re-examined by the RBI.

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
				under the ESOP Scheme have to be offered at a concessional price.			
14.	Portfolio investment - Overseas - In equity and debt instruments.	66/13.01.03 104/31.05.03	No ceiling.	The overseas companies have to be listed on a recognised stock exchange which have the share holding of at least 10 per cent in an Indian company listed on a recognised stock exchange in India (as on January 1 of the year of investment).	Documentary evidence in compliance of the conditions stated in column No.5.	<ul style="list-style-type: none"> Form A2 required if the amount exceeds USD 5000 	As per Item 5. The Committee is of the view that this facility for individuals is virtually inoperative in the absence of a foreign currency bank account outside India. The Committee, therefore, recommends that resident individuals should be allowed to have foreign currency bank accounts subject to reasonable safeguards.
15.	Receipt of disinvestment proceeds/sponsored ADRs/ GDRs (In foreign currency or to credit it to EEFC / RFC (D) A/c.).	75/03.02.03	No ceiling.	The conversion to such ADRs/GDRs should have the approval of FIPB.	Documentary evidence in compliance of the conditions stated in column No.5.	--	--

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
16.	Retention of foreign exchange on return.	FEMA.11/ 2000-RB of 03.05.2000	USD 2,000 in the form of currency notes / TCs	<ul style="list-style-type: none"> • Exchange acquired from specified sources as detailed in the annexure enclosed • Surrender provisions - <ul style="list-style-type: none"> a) Foreign exchange received within seven days from the date of receipt. b) FE not utilised at all within 60 days. c) FE unspent - currency within 90 days and TCs within 180 days. <p>For retention of coins no limit.</p>	.	--	-
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

EXISTING POSITION ON FOREIGN EXCHANGE FACILITIES AVAILABLE TO RESIDENT INDIVIDUALS (As made available by the Exchange Control Department, Central Office)							Committee's Recommendations/ Comments
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17.	Resident Foreign Currency (Domestic) Account - RFC(D) A/c.	37/01.11.02 53/23.11.02 64/24.12.02	No limit	<ul style="list-style-type: none"> • Non-interest bearing Current Account. • Permitted credits - <ul style="list-style-type: none"> - Unspent balance after travel abroad. - received from non-resident for services rendered to them - when they were in India. - earnings as honorarium, consultant, royalty for any service or towards export of goods. • Permitted debits - <ul style="list-style-type: none"> - For any permitted purpose under FEMA. 	Account opening formalities as applicable to domestic accounts including KYC Guidelines to be followed by ADs.	--	-

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
18.	International Credit Cards	59/09.12.02 73/24.01.03 103/21.05.03	Upto the credit limits prescribed by the issuer.	<ul style="list-style-type: none"> • Issued by Domestic Bank - No condition. • Issued by overseas Bank/Agencies - one need to have a foreign currency account in India or with a bank overseas. 		No restriction apply to the use of ICCs for making payments by a person towards meeting expenses while such person is on a visit outside India.	The intent of the policy, its content and procedures could subvert the policy intent and the Committee recommends that unless the policy intent is meant to be unfettered limits for all Items in the table, the usage of ICC should be reviewed by RBI.
Notes attached to the table provided by the Exchange Control Department: -							
<ol style="list-style-type: none"> 1. In terms of Sub-section (5) of Section 10 of the FEMA, 1999 ADs are required to obtain a declaration and such other information from the applicant on whose behalf the transaction has been undertaken that will reasonably satisfy him that transaction is not designed to contravene or evade the provisions of the Act or any of the Rules or Regulations made or Notifications or directions issued under the Act. 2. A2 Form need not be obtained for remittance upto USD 5,000 [A.P.(DIR Series) Circular No.55 dated 23.12.2003]. 3. Release of exchange exceeding the limits indicated in the statement are to be considered by ROs of ECD. 4. At the time of introduction of FEMA, ADs have been advised that RBI will not prescribe documentation which should be verified by the ADs while permitting remittances for various transactions, particularly current account. They have also been advised, with a view to maintaining uniform practices they may consider prescribing requirements or documents to be obtained by their branches to ensure compliance with provisions of sub-section (5) of the Section 10 of the Act. 							

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
5.	Repatriation of all current income Continued	45/14.05.02 5/15.07.02 26/28.9.2002	No limit	Subject to an appropriate certification by a Chartered Accountant, certifying that the amount proposed to be remitted is eligible for remittance and applicable taxes have been paid / provided for.	CA certificate as stated in col.5. (It was clarified that NRIs/PIOs who do not maintain NRO account and who have no taxable income in India need not submit the certificate. ADs may obtain a simple declaration that he / she is not a tax payer in India).	Current income can also be credited to NRE account subject to compliance with the conditions as stated in column 5.	<ul style="list-style-type: none"> The Committee is of the view that while the present policy is quite liberal the procedures are extremely arduous. While Forms A and B are to meet the tax authorities' requirements the Committee recommends that the RBI should place before tax authorities the difficulties faced by ADs and individuals. The tax authorities could consider devising a special format for individuals, at least for remittances upto an aggregate amount of US\$25,000 per annum. For remittances upto US\$25,000 per annum it should suffice if the individual produces a copy of the

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							Assessment Order for the year for which the Continued.....
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
							remittance is sought or if an Assessment Order is not available, the remittance may be permitted six months after the date of the filing of the income tax return on production of a copy of the return duly acknowledged by the tax authorities. <ul style="list-style-type: none"> • For individuals who have no taxable income a simple declaration should suffice. In all cases of remittances by individuals upto an aggregate amount of US\$25,000 per annum, under all heads, the A2 form and the negative declaration, should be dispensed with and the model letter-cum-declaration

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
							format set out by the Committee for residents could be used as a basis for devising the format.
2.	Repatriation of balances in NRO A/c. / Sale proceeds of assets/sale proceeds of immovable property	67/13.01.03 104/31.05.03	USD 1 mn. p.a.	<ul style="list-style-type: none"> Subject to applicable taxes. Immovable property and/or sale proceeds or together should be held in India for a period of 10 years. 	<ul style="list-style-type: none"> Evidence of sale of assets. Evidence of holding of property/ sale proceeds. 		The Committee is of the view that the provisions of Section 195 of the Income Tax Act are very onerous and are met only in the breach. For remittances upto US\$25,000 per annum the procedure suggested for Item 1 may be followed.
3.	Sale proceeds of immovable property acquired out of repatriable funds (i.e. Inward remittances / balance in NRE/FCNR (B) A/c.)	FEMA.21 / 2000-RB of 03.05.2000	To the extent amount paid in foreign exchange.	<p>Property is acquired in accordance with the provisions of Foreign Exchange Law.</p> <ul style="list-style-type: none"> In the case of residential properties, the repatriation of sale proceeds is 	AD to get satisfied that the property was acquired out of inward remittances received or by debit to NRE / FCNR accounts.		—

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
				restricted to not more than two properties.			
4.	Refund of application/ earnest money / purchase consideration made by house building agencies/ seller on account of non-allotment /cancellation of bookings (together with interest, if any).	FEMA.64 / 2002-RB of 29.06.2002 46/12.11.02	To the extent amount paid in foreign exchange.	Provided the original payment was made out of NRE/FCNR(B) A/c. or remittance from outside India through normal banking channel and the AD is satisfied about the genuineness of the transaction.	Evidence in respect of refund etc.		-
5.	Facilities for returning NRIs/PIOs - continue to hold / maintain <ul style="list-style-type: none"> • FC 	FEMA.10 / 2000-RB of 03.05.2000	No Limit.	Foreign Exchange, Security, property /any other asset should have been held or owned when	--	--	-

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Account (abroad) <ul style="list-style-type: none"> • Investment (abroad) • Immovable property outside India 			resident outside India.			
6.	Facilities for returning NRIs/PIOs - Resident Foreign Currency A/c.	FEMA.10 / 2000-RB of 03.05.2000	No limit.	--	Account opening formalities including KYC guidelines.	Balances in NRE/FCNR(B) A/c. can be transferred to the A/c. The funds in the account are free from all restrictions regarding utilisation of foreign currency balances including any restriction on investment in any form, by whatever name called, outside India.	-
7.	Investment opportunities Bank Accounts -	FEMA.5/ 2000-RB of 03.05.2000	No limit.	--	Account opening formalities including KYC		-

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	i) FCNR (B), ii) NRE iii) NRO				guidelines.		
8.	Other investments <ul style="list-style-type: none"> • Government debt securities / Treasury Bills. • Units of Domestic Mutual Funds. • Bonds of PSUs. • Shares in PSUs disinvested by Govt. • Shares/ Debentures of firms. of Indian companies from primary market 	38/03.12.03	As per Government policy	As per Government policy.			-

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Continued						
	<ul style="list-style-type: none"> Shares /debentures of Indian companies from Stock exchanges under PIS. 						
9.	Investment in immovable property both on repatriation and non-repatriation basis.	FEMA.21 / 2000-RB of 03.05.2000. 43/08.12.03.	No restriction.	Not permitted to acquire agricultural plantation/ farm house or in real estate activity (i.e. buying and selling of the immovable property). Repatriation of only two residential properties.	--	--	-
10.	Payment of Credit Card dues out of NRO Funds by NRIs/PIOs.	59/09.12.02	To the extent of card limit.	The debits are also subject to conditions for use of ICCs by residents.	--	--	The Committee recognises this liberal facility but the Committee would stress that the uneven treatment of various NRO facilities

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							should be expeditiously examined by the RBI.